

# STATE OF UTAH

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## MEMORANDUM

DATE: September 4, 2001

TO: Lee H. Sim, Engineering Manager  
Kerry E. Carpenter, Cedar City Regional Engineer  
Kirk Forbush, Richfield Regional Engineer  
UTAH DIVISION OF WATER RIGHTS  
L. Ward Wagstaff, Assistant Attorney General

FROM: Michael M. Quealy, Assistant Attorney General

RE: Otter Creek Res. Co., et al.  
v.  
New Escalante Irr. Co.,  
Wayne County Civil No. 435

Attached is the latest salvo from Ken Chamberlain on the above-entitled case. In short, it raises the question of which adjudication the disputed water right is (or should be) included in. Do we go by the point of diversion or the place of use in determining which adjudication it is in? Also, do we have any hydrographic maps from either adjudication showing the Iron Springs diversion? Or any other information which might be helpful?

Please let me know. Thanks and best regards.

Attachment

MMQ/jr

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KEN CHAMBERLAIN  
RICHARD K. CHAMBERLAIN

August 30, 2001

Michael Quealy, Legal Counsel  
Utah State Engineer  
1594 W. North Temple, Ste. 220  
P.O. Box 140855  
Salt Lake City, UT 84114

RE: Otter Creek Reservoir Company et al. v. New Escalante Irrigation Company

Dear Mike:

As you advised us previously, it is not your desire to enter into the litigation between Otter Creek as Plaintiff and New Escalante Irrigation Company as Defendant.

However, I am enclosing a copy of a "Petition for Interlocutory Determination Escalante Subdivision", Civil No. 435 in the Sixth Judicial District Court for Wayne County, State of Utah.

It appears to me that any effort to modify the determination as far as the Escalante Subdivision is concerned would also concern the State Engineer.

One thing of significant interest to me is the allegation on page five of Steve Clyde's Memorandum in Support of a Petition for Interlocutory Determination that there are "hydrographic maps prepared by the State Engineer for the Escalante Adjudication which included a depiction of the ditch used to divert the water..."

I doubt very much that there are hydrographic maps which could show Iron Springs other than on the Sevier River side of the Forest Service lands.

I have looked at Kirk Forbush's hydrologic maps and can find none.

I would like to hear from you at your convenience on this.

Best personal regards,

CHAMBERLAIN ASSOCIATES

By

  
Ken Chamberlain

KC:jmm  
Enc.